

MACHINE OPERATOR OR RETAILER WHO PURCHASES CIGARETTES AT PRICES ORDINARILY INVOICED TO A WHOLESALER AND WHO RECEIVES THE WHOLESALER'S DISCOUNTS ON THEM SHALL:

(i) FIRST, ADD TO HIS BASIC COST OF CIGARETTES THE WHOLESALE MARKUP OF 5 PERCENT PROVIDED FOR IN §11-501(E) TO COVER THE COST OF DOING BUSINESS AS A WHOLESALER, PLUS THE FULL FACE VALUE OF ANY CIGARETTE TAXES PAYABLE ON THEM; AND

(ii) THEN, ON THE RESULTANT SUM, ADD THE RETAIL MARKUP OF 8 PERCENT PROVIDED FOR IN §11-501(D).

(2) IF THE DISCOUNT RECEIVED BY THE VENDING MACHINE OPERATOR OR RETAILER IS LESS THAN THAT ORDINARILY ALLOWED TO WHOLESALERS, THE WHOLESALE MARKUP OF 5 PERCENT MAY BE REDUCED BY THE DIFFERENCE BETWEEN THE DISCOUNT ORDINARILY ALLOWED TO WHOLESALERS AND THE DISCOUNT RECEIVED BY THE RETAILER OR VENDING MACHINE OPERATOR.

(C) SALE BY WHOLESALER TO OTHER WHOLESALER OR VENDING MACHINE OPERATOR.

(1) A WHOLESALER WHO SELLS CIGARETTES TO ANOTHER WHOLESALER OR TO A VENDING MACHINE OPERATOR IS NOT REQUIRED TO INCLUDE IN HIS SELLING PRICE THE COST TO THE WHOLESALER. HOWEVER, IN THE ABSENCE OF SATISFACTORY PROOF OF A LESSER COST FOR THE SERVICE RENDERED, THE WHOLESALER SHALL INCLUDE IN THE SELLING PRICE HIS BASIC COST OF CIGARETTES, PLUS A CHARGE OF 1 PERCENT OF HIS BASIC COST OF CIGARETTES.

(2) IF A WHOLESALER PURCHASES CIGARETTES FROM ANOTHER WHOLESALER, THEN, ON RESALE OF THE CIGARETTES TO A RETAILER, HE IS THE WHOLESALER FOR THE PURPOSES OF THIS SUBTITLE.

REVISOR'S NOTE: This section presently appears as Art. 83, §119, except for §119(b), the substance of which now appears in §11-501 (h) and (n).

The only other changes are in style.

11-504. SALE OR PURCHASE AT LESS THAN COST PROHIBITED.

(A) PROHIBITION ON SALE.

A RETAILER OR WHOLESALER WITH INTENT TO INJURE A COMPETITOR OR TO DESTROY OR SUBSTANTIALLY LESSEN COMPETITION MAY NOT MAKE A RETAIL SALE OF CIGARETTES OR A WHOLESALE SALE OF CIGARETTES AT LESS THAN THE COST TO THE RETAILER OR THE COST TO THE WHOLESALER, RESPECTIVELY.